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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Stephen L. Mayo et.al.

Serial No. 10/057,552

Filed: January 25, 2002

For: Apparatus and Method for
Automated Protein Design

Group No. 1637

Examiner: Kim, Young J.

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION

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Commissioner for Patents
P.O. Box 1450
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Sir:

The Petitioner, **California Institute of Technology**, represents that it is the assignee of the entire right, title, and interest of:

(1) the instant application, U.S.S.N. 10/057,552, which is a continuation application of U.S.S.N. 09/714,357, filed November 15, 2000, which is a continuation application of U.S.S.N. 09/058,459, filed April 10, 1998, now U.S. Patent No. 6,188,965, which claims the benefit of U.S.S.N. 60/061,097, filed October 3, 1997, U.S.S.N. 60/054,678, filed August 4, 1997, and U.S.S.N. 60/043,464, filed April 11, 1997;

(2) copending application 09/837,866, filed April 18, 2001, which is a continuation application of U.S.S.N. 09/714,357, filed November 15, 2000, which is a continuation application of U.S.S.N. 09/058,459, filed April 10, 1998, now U.S. Patent No. 6,188,965, which claims the benefit of U.S.S.N. 60/061,097, filed October 3, 1997, U.S.S.N. 60/054,678, filed August 4, 1997, and U.S.S.N. 60/043,464, filed April 11, 1997; and,

(3) U.S. Patent No. 6,188,965 which claims the benefit of U.S.S.N. 60/061,097, filed October 3, 1997, U.S.S.N. 60/054,678, filed August 4, 1997, and U.S.S.N. 60/043,464, filed April 11, 1997.

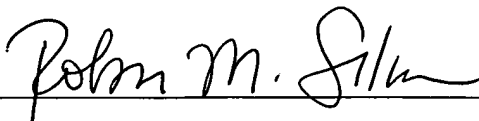
Written assignment proof for U.S.S.N. 09/058,459, filed April 10, 1998, now U.S. Patent No. 6,188,965, is recorded in the U.S. Patent and Trademark Office at Reel/Frame 010893/0095 and was recorded on June 13, 2000. A copy of the Notice of Recordation of Assignment is attached.

California Institute of Technology hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending Patent Application No. 09/837,866, filed April 18, 2001, of any patent on Patent Application No. 09/837,866, and of prior Patent No. 6,188,965. California Institute of Technology hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on 09/837,866 and prior patent No. 6,188,965 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the California Institute of Technology does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of any patent granted on pending Application No. 09/837,866 and of prior patent No. 6,188,965, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney or agent of record.

Dated: **March 26, 2004**

By: 

Name: Robin M. Silva

Title: Partner, Dorsey & Whitney LLP



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